

### REMARKS

Applicant has submitted a corrected drawing. Claims 1-14 have been withdrawn. Claim 15 has been amended. This change has been made to place the claim in better form for examination and to further obviate the 35 U.S.C. §102(b) rejection as set forth in the Office Action dated April 13, 2006. It is believed that the amendment does not constitute new matter. It is submitted that this amendment obviates the rejection. Withdrawal of this rejection is respectfully requested.

The Examiner has objected to Figure 3 because letters in the shaded parts of the figure cannot be made out. Applicant has submitted an unshaded copy of Figure 3.

The Examiner has rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by Rédei (1973, Mutation Res. 18:149-162) taken with the evidence of the instant application. Rédei did not find cytoplasmic male sterility associated with the *chm* (MSH1) mutant phenotype arising from mitochondrial ectopic recombination, while the instant application specifically does show cytoplasmic male sterility arising from mitochondrial ectopic recombination (see paragraphs [0014] and [00123] of the specification), providing evidence that the phenotype of the mutant of claim 15 is distinct and different from the phenotype of the mutant described in the reference from Rédei. Therefore, the present invention is novel and different from Rédei (1973, Mutation Res. 18:149-162). Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by Martínez-Zapater et al (1992, Plant Cell, 4: 889-899) taken with the evidence of the instant application. Martínez-Zapater did not find cytoplasmic male sterility associated with the *chm* (MSH1) mutant phenotype arising from mitochondrial ectopic recombination, while the instant application specifically does show cytoplasmic male sterility arising from mitochondrial ectopic recombination (see paragraphs [0014] and [00123] of the specification), providing evidence that the phenotype of the mutant of claim 15 is distinct and different from the phenotype of the mutant described in the reference from Martínez-Zapater. Therefore, the present invention is novel and different


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from Martínez-Zapater et al (1992, Plant Cell, 4: 889-899). Withdrawal of this rejection is respectfully requested.

In view of the above amendment and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §102(b). Reconsideration of this application and an early notice of allowance are respectfully requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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